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UNITED STATES PATENT AND TRADEMARK OFFICE

Trademark Trial and Appeal Board

In re Connecting Forward, LLC

Serial No. 97565017

Trezanay M. Atkins of tmaLaw,
for Connecting Forward, LLC.

Valerie Kaplan, Trademark Examining Attorney, Law Office 107,
Leslie Bishop, Managing Attorney.

Before Stanley, Lavache, and Bradley,
Administrative Trademark Judges.

Opinion by Lavache, Administrative Trademark Judge:

Applicant, Connecting Forward, LLC, seeks registration on the Principal Register of the standard-character mark MISTER JUNETEENTH, for "Organizing events in the field of pageants for cultural or educational purposes; Entertainment in the nature of pageant competitions," in International Class 41.[1]

[1] Application Serial No. 97565017, filed August 25, 2022, claiming a bona fide intention to use the mark in commerce, under Trademark Act Section 1(b), 15 U.S.C. § 1051(b). Applicant has disclaimed the exclusive right to use the term JUNETEENTH apart from the mark as shown. *See* November 20, 2023 Response to Nonfinal Office Action at TSDR 1.

The Trademark Examining Attorney refused registration of Applicant's mark on the ground of likelihood of confusion under Trademark Act Section 2(d), 15 U.S.C. § 1052(d), citing the standard-character marks JUNIOR MISS JUNETEENTH,[2] TEEN MISS JUNETEENTH,[3] and MISS JUNETEENTH SCHOLARSHIP PAGEANTRY PROGRAM,[4] all of which have the same owner and are registered on the Principal Register for "Entertainment in the nature of pageant competitions; organization of events for cultural purposes; organization of events in the field of pageants for educational purposes," in International Class 41. After the Examining Attorney issued a final refusal, Applicant filed this appeal. Both Applicant and the Examining Attorney filed briefs.[5] For the reasons explained below, we **reverse** the refusal.

I. Likelihood of Confusion

Trademark Act Section 2(d), in relevant part, prohibits registration of a mark that "so resembles a mark registered in the Patent and Trademark Office . . . as to be

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The Trademark Status and Document Retrieval (TSDR) and TTABVUE citations in this opinion refer respectively to the electronic application file and entries in the Board's electronic docket. For TTABVUE citations, the number preceding the TTABVUE designation is the docket entry number and any numbers following indicate the relevant page numbers within the docket entry.

[2] Registration No. 6835111, issued on August 30, 2022, from an application filed on March 12, 2021. The registration includes a disclaimer of the exclusive right to use JUNIOR and JUNETEENTH apart from the mark as shown.

[3] Registration No. 6835110, issued on August 30, 2022, from an application filed on March 12, 2021. The registration includes a disclaimer of the exclusive right to use TEEN and JUNETEENTH apart from the mark as shown.

[4] Registration No. 7350182, issued on April 9, 2024, from an application filed on May 16, 2022. The registration includes a disclaimer of the exclusive right to use JUNETEENTH SCHOLARSHIP PAGEANTRY PROGRAM apart from the mark as shown.

[5] *See* Applicant's Brief, 4 TTABVUE; Examining Attorney's Brief, 6 TTABVUE.

likely, when used on or in connection with the goods [or services] of the applicant, to cause confusion." 15 U.S.C. § 1052(d). To determine whether confusion is likely, we analyze all probative evidence relevant to the factors set out in *In re E. I. du Pont de Nemours & Co.*, 476 F.2d 1357, 1361 (CCPA 1973) ("*DuPont*"). *See In re Majestic Distilling Co.*, 315 F.3d 1311, 1315 (Fed. Cir. 2003).

In every Section 2(d) case, two key *DuPont* factors are the similarity or dissimilarity of the marks and respective goods or services, because the "fundamental inquiry mandated by § 2(d) goes to the cumulative effect of differences in the essential characteristics of the goods [or services] and differences in the marks." *Federated Foods, Inc. v. Fort Howard Paper Co.*, 544 F.2d 1098, 1103 (CCPA 1976). Here, we have considered each *DuPont* factor that is relevant and for which there is evidence and argument of record. *See In re Guild Mortg. Co.*, 912 F.3d 1376, 1379 (Fed. Cir. 2019).

Varying weight may be assigned to each *DuPont* factor depending on the evidence presented. *See Citigroup Inc. v. Cap. City Bank Grp. Inc.*, 637 F.3d 1344, 1356 (Fed. Cir. 2011); *In re Shell Oil Co.*, 992 F.2d 1204, 1205 (Fed. Cir. 1993) ("[T]he various evidentiary factors may play more or less weighty roles in any particular determination."). Ultimately, however, "each case must be decided on its own facts and the differences are often subtle ones." *Indus. Nucleonics Corp. v. Hinde*, 475 F.2d 1197, 1199 (CCPA 1973).

A. Focus on Registration No. 7350182

Although the Examining Attorney cited three registrations in the refusal under Trademark Act Section 2(d), we need not consider all three in our analysis. The

services listed in all of the cited registrations are the same and the registered marks are very similar to each other in view of their shared wording. Of the three registered marks, we find the MISS JUNETEENTH SCHOLARSHIP PAGEANTRY PROGRAM in Registration No. 7350182 to be the most similar to Applicant's mark, at least in terms of the initial wording in, and structure of, the marks, especially when taking into account that SCHOLARSHIP PAGEANTRY PROGRAM is descriptive, if not generic, as applied to the identified services. Therefore, our analysis will focus on the mark in Registration No. 7350182 (the "Cited Mark"). A conclusion that there is a likelihood of confusion as to MISS JUNETEENTH SCHOLARSHIP PAGEANTRY PROGRAM would suffice to affirm the Section 2(d) refusal. Conversely, a conclusion that there is no likelihood of confusion with respect to this registered mark would compel a conclusion that there is also no likelihood of confusion as to the other cited marks. *See In re Morinaga Nyugyo K.K.*, No. 86338392, 2016 TTAB LEXIS 448, at *7-8; *In re Max Cap. Grp.*, No. 77186166, 2010 TTAB LEXIS 1, at *4-5.

B. Comparison of the Services

We begin our likelihood-of-confusion analysis with the second *DuPont* factor, which concerns the similarity or dissimilarity and nature of the respective services, i.e., the relatedness of the services. *DuPont*, 476 F.2d at 1361. In assessing relatedness, we must consider the services as they are identified in Applicant's application and the cited registration. *See Stone Lion Cap. Partners, LP v. Lion Cap. LLP*, 746 F.3d 1317, 1323 (Fed. Cir. 2014); *Octocom Sys., Inc. v. Hous. Comput. Servs. Inc.*, 918 F.2d 937, 942 (Fed. Cir. 1990).

Here, Applicant's services are identified as "Organizing events in the field of pageants for cultural or educational purposes; Entertainment in the nature of pageant competitions," in International Class 41. Registrant's services are "Entertainment in the nature of pageant competitions; organization of events for cultural purposes; organization of events in the field of pageants for educational purposes," in International Class 41.

Thus, Applicant's services are identical to the services listed in the cited registration.[6] Applicant does not contend otherwise. Accordingly, the second *DuPont* factor weighs in favor of a conclusion that confusion is likely.

C. Trade Channels and Classes of Consumers

Next, we consider established, likely-to-continue channels of trade, the third *DuPont* factor. *DuPont*, 476 F.2d at 1361. Because Applicant's services are identical to Registrant's services, and there are no restrictions in the identifications as to the services or channels of trade, we presume that the trade channels and classes of purchasers are the same. *See In re Viterra Inc.*, 671 F.3d 1358, 1362 (Fed. Cir. 2012) (finding Board entitled to presume that trade channels and classes of purchasers were the same where the respective goods were identical); *In re Am. Cruise Lines, Inc.*, No. 87940022, 2018 TTAB LEXIS 363, at *5; *In re Inn at St. John's, LLC*, No. 87075988, 2018 TTAB LEXIS 170, at *6, *aff'd per curiam*, 777 Fed. App'x 516 (Fed.

[6] The clause "Entertainment in the nature of pageant competitions" appears in both identifications. And the clauses "organization of events for cultural purposes" and "organization of events in the field of pageants for educational purposes" in the registration's identification are identical in substance to, or otherwise encompass, "Organizing events in the field of pageants for cultural or educational purposes" in the application's identification.

Cir. 2019). Applicant does not address this factor or otherwise dispute this point. The third *DuPont* factor therefore also weighs in favor of a conclusion that confusion is likely.

D. Strength or Weakness of the Cited Mark

Before we compare the marks at issue, we consider Applicant's arguments regarding the strength of the Cited Mark MISS JUNETEENTH SCHOLARSHIP PAGEANTRY PROGRAM.[7] We do so because a determination of the strength or weakness of the mark helps inform us as to its scope of protection. *See Morinaga Nyugyo*, 2016 TTAB LEXIS 448, at *17-18 ("[T]he strength of the cited mark is—as always—relevant to assessing the likelihood of confusion under the *du Pont* framework.").

When evaluating the strength or weakness of a mark, we look at the mark's inherent conceptual strength based on the nature of the term itself and its commercial strength in the marketplace. *See Spireon, Inc. v. Flex Ltd.*, 71 F.4th 1355, 1362 (Fed. Cir. 2023) ("There are two prongs of analysis for a mark's strength under the sixth factor: conceptual strength and commercial strength."); *In re Chippendales USA, Inc.*, 622 F.3d 1346, 1353-54 (Fed. Cir. 2010) (measuring both conceptual and marketplace strength); *Made in Nature, LLC v. Pharmavite LLC*, No. 91223352, 2022 TTAB LEXIS 228, at *24.

[7] *See* Applicant's Brief, 4 TTABVUE 13-21.

1. Conceptual Strength of the Cited Mark

Conceptual strength is a measure of a mark's distinctiveness and may be placed "in categories of generally increasing distinctiveness: . . . (1) generic; (2) descriptive; (3) suggestive; (4) arbitrary; or (5) fanciful." *Two Pesos, Inc. v. Taco Cabana, Inc.*, 505 U.S. 763, 768 (1992). Marks in the latter three categories are considered inherently distinctive. *See Chippendales*, 622 F.3d at 1351. Here, the Cited Mark, MISS JUNETEENTH SCHOLARSHIP PAGEANTRY PROGRAM, issued on the Principal Register without a claim of acquired distinctiveness, albeit with a disclaimer of JUNETEENTH SCHOLARSHIP PAGEANTRY PROGRAM. Thus, the mark, as a whole, is presumed to be inherently distinctive as to the services listed in the cited registration. 15 U.S.C. § 1057(b); *Tea Bd. of India v. Republic of Tea, Inc.*, No. 91118587, 2006 TTAB LEXIS 330, at *62 ("A mark that is registered on the Principal Register is entitled to all Section 7(b) presumptions including the presumption that the mark is distinctive and moreover, in the absence of a Section 2(f) claim in the registration, that the mark is inherently distinctive for the goods [or services].").

However, the U.S. Court of Appeals for the Federal Circuit has held that if there is evidence that a mark, or an element of a mark, is commonly adopted by many different registrants, that may indicate that the mark or common element has some conceptual weakness as an indicator of a single source. *See Jack Wolfskin Ausrustung Fur Draussen GmbH & Co. KGAA v. New Millennium Sports, S.L.U.*, 797 F.3d 1363, 1374 (Fed. Cir. 2015) ("[E]vidence of third-party registrations is relevant to 'show the sense in which a mark is used in ordinary parlance,' . . . that is, some segment that is common to both parties' marks may have 'a normally understood and well-

recognized descriptive or suggestive meaning, leading to the conclusion that segment is relatively weak.'") (quoting *Juice Generation, Inc. v. GS Enters. LLC*, 794 F.3d 1334, 1339 (Fed. Cir. 2015)).

Here, Applicant argues that "MISS JUNETEENTH is weak and by law, allows for coexistence with other marks with a shared term and distinguishing matter."[8] In support, Applicant submitted 27 active use-based third-party registrations, registered to 22 different owners, for marks containing the term MISS for use in connection with pageant services.[9]

The registered marks include the following:

- MISS HBCU TEEN PAGEANT (HBCU TEEN PAGEANT disclaimed);
- MISS NEW YORK (claim of acquired distinctiveness as to NEW YORK);
- MISS PENNSYLVANIA'S TEEN (claim of acquired distinctiveness as to PENNSYLVANIA'S and disclaimer of TEEN);
- MISS FLORIDA (claim of acquired distinctiveness as to FLORIDA);
- MISS AMERICAN TEEN INTERNATIONAL, stylized with design (disclaimer of AMERICAN TEEN INTERNATIONAL);
- ELITE AMERICAN MISS (disclaimer of AMERICAN);

[8] *Id.* at 13.

[9] *Id.* at 15. The third-party registrations can be found in Applicant's June 9, 2025 Response to Nonfinal Office Action at TSDR 110-147. Although Applicant claims to have submitted a total of 32 registrations for marks containing MISS, there are actually 31 different marks, as one of the registrations is a duplicate. *See id.* at 126-127. In addition, two of the registrations are cancelled: Registration Nos. 5866225 and 5855542. *Id.* at 141-142; *see In re Audemars Piguet Holding SA*, No. 90045780, 2025 TTAB LEXIS 1, at *60 n.103 (taking judicial notice of registration renewals reflected in USPTO records). We therefore do not consider these registrations. *See Made in Nature*, 2022 TTAB LEXIS 228, at *31 ("A cancelled or expired registration has no probative value other than to show that it once issued."). Lastly, we find that two of the registrations contain wording that is different than MISS: Registration No. 2389954 for MISS'D AMERICA (AMERICA disclaimed) and Registration No. 2958199 for MS. GOLDEN AMERICA (AMERICA disclaimed). *See id.* at 126, 144.

- MISS BLACK FRESNO PAGEANT (disclaimer of BLACK FRESNO PAGEANT);
- MISS BLACK FRESNO TEEN PAGEANT (disclaimer of BLACK FRESNO TEEN PAGEANT);
- MISS WEST COAST (disclaimer of WEST COAST);
- MISS MISSION INTERNATIONAL (disclaimer of INTERNATIONAL);
- MISS MISSION INTERNATIONAL, stylized with design (disclaimer of INTERNATIONAL);
- MISS DESOTO COUNTY (disclaimer of DESOTO COUNTY);
- NATIONAL MISS CURVY (disclaimer of NATIONAL and CURVY);
- MISS DOG MOM (disclaimer of DOG MOM);
- MISS PHILADELPHIA (disclaimer of PHILADELPHIA);
- NATIONAL AMERICAN MISS (disclaimer of NATIONAL AMERICAN);
- MISS RODEO (disclaimer of RODEO);
- MISS GYMNASTICS PAGEANT AND TALENT SHOW (disclaimer of GYMNASTICS PAGEANT AND TALENT SHOW);
- MISS IRAN (disclaimer of IRAN);
- MISS IRAN AWARDS (disclaimer of IRAN AWARDS);
- MISS ASIAN CHICAGO (disclaimer of ASIAN CHICAGO);
- MISS BLACK INTERNATIONAL AMBASSADOR (disclaimer of BLACK INTERNATIONAL AMBASSADOR);
- MISS AMERICAN TEENAGER (disclaimer of AMERICAN TEENAGER);
- NATIONAL MISS MELANIN PAGEANT (disclaimer of NATIONAL and PAGEANT);
- AMERICA'S U.S. MISS (disclaimer of AMERICA'S U.S.);

- MISS CURLY USA PAGEANT (disclaimer of CURLY USA PAGEANT); and
- MISS CHINESE COSMOS PAGEANT, stylized with design (disclaimer of CHINESE and PAGEANT).

Applicant has also made of record an excerpt from the online version of the Merriam-Webster dictionary, defining "miss" as "a young lady," "a conventional term of address to a young woman," "a title prefixed to the name of an unmarried woman or girl," or a term "used before the name of a place or of a line of activity or before some epithet to form a title for a usually young unmarried female who is representative of the thing indicated [e.g.,] **Miss** America."[10] In addition, the record contains internet evidence (discussed further below), which, consistent with these definitions, shows that MISS is commonly used in connection with pageants, particularly those in which young women are competing.[11]

Further, the term JUNETEENTH, which is disclaimed in both the Cited Mark and Applicant's mark, refers to an official federal holiday that commemorates the end of slavery in the United States through recognition of the day on which "over 250,000 enslaved people in Galveston, Texas received news of their emancipation."[12] And, as Applicant's evidence shows, Juneteenth is celebrated around the country through

[10] June 9, 2025 Response to Nonfinal Office Action at TSDR 149 (italics in original replaced with bold font).

[11] *See id.* at 32-96 (excerpts from third-party websites advertising various "Miss Juneteenth" pageants and related activities). *See also id.* at TSDR 98-108 (Wikipedia entry listing women's beauty pageants, many of which feature the term MISS in their names).

[12] *Id.* at 17 (excerpt from the website of the United States Capitol Historical Society, explaining the significance of the Juneteenth holiday).

various events, including beauty pageants. For example, pageants for young women are held in connection with Juneteenth events in St. Paul, Minnesota; Peoria, Illinois; Wylie, Texas; Savannah, Georgia; and Indianapolis, Indiana.[13] These pageants typically use the terms "MISS" and "JUNETEENTH" in their names.[14]

Based on this evidence, we find that MISS JUNETEENTH has a "a normally understood and well-recognized" meaning that is highly suggestive of Registrant's identified pageant and cultural event services. Specifically, the wording suggests that Registrant's pageants and events are intended for young women and are Juneteenth-oriented. *See Jack Wolfskin*, 797 F.3d at 1374. And the addition of the disclaimed descriptive/generic wording SCHOLARSHIP PAGEANTRY PROGRAM does not lend the mark any distinctiveness. Thus, while we must presume that the Cited Mark, as a whole, is inherently distinctive, we find it to be conceptually very weak.

2. Commercial Strength of the Cited Mark

To assess commercial strength of the Cited Mark, we consider the number and nature of similar marks in use on similar services. *DuPont*, 476 F.2d at 1361; *see Primrose Ret. Cmtys., LLC v. Edward Rose Senior Living, LLC*, No. 91217095, 2016 TTAB LEXIS 604, at *11. If the evidence establishes that the consuming public is exposed to widespread third-party use of similar marks for similar services, it "is relevant to show that a mark is relatively weak and entitled to only a narrow scope

[13] *See id.* at 35, 38, 40, 58, 63.

[14] *See id.*

of protection." *See Palm Bay Imps., Inc. v. Veuve Clicquot Ponsardin Maison Fondee En 1772*, 396 F.3d 1369, 1373 (Fed. Cir. 2005).

As mentioned above, Applicant has introduced excerpts from various third-party websites advertising beauty pageants for young women,[15] which often take place in connection with Juneteenth-related events or otherwise have Juneteenth-oriented themes. These pageants typically feature the wording MISS JUNETEENTH, or a variation thereof, in their names.

For example:

- The website for Chandler, Arizona (www.chandleraz.gov) advertises a "**Miss Juneteenth Arizona**" pageant that "celebrates Juneteenth and focuses on empowering young women by promoting education, community service, and cultural awareness."[16]

- The website for Peoria, Illinois (www.peoriagov.org) lists "**Peoria's Miss Juneteenth Pageant**" among its Juneteenth events.[17]

- "**TSEJA's Miss Juneteenth Scholarship Pageant**," which is intended for competitors "currently in the 11th grade," is advertised on the website for TSE Juneteenth Affairs, Inc. (www.juneteenthdothanal.com).[18]

- The website wyliejuneteenth.com advertises the "**Miss Teen Juneteenth Wylie Pageant**," which is described as not only a competition, but also a "celebration of heritage, culture, and community" intended to "foster[] a sense of pride[19] and accomplishment in each participant."

- The website for the "**Miss Juneteenth Minnesota State Pageant**" (www.missjuneteenthmn.org) seeks "confident, intelligent, charismatic,

[15] Two of the submitted website excerpts appear to be advertising Registrant's pageants. *See, e.g.*, June 9, 2025 Response to Nonfinal Office Action at TSDR 33, 69-71. We have not considered these in our strength analysis.

[16] June 9, 2025 Response to Nonfinal Office Action at TSDR 32 (emphasis added).

[17] *Id.* at 35 (emphasis added).

[18] *Id.* at 36 (emphasis added).

[19] *Id.* at 38 (emphasis added).

compassionate, and courageous black girls, teens, and adults from the ages of 6-39, who want to make a difference in their community and be a part of an incredible Juneteenth movement and sisterhood."[20]

- The Explore Minnesota website (www.exploreminnesota.com) also features a page describing the "**MISS JUNETEENTH MINNESOTA STATE PAGEANT**," which is for "females ages six to 30" and is intended "to educate the 24 contestants about the origins and purpose of Juneteenth."[21]

- The website flagpole.com advertises the "second annual **Miss Juneteenth Pageant**," taking place in Athens, Georgia and "hosted by SLay Pageants . . . with the goal to empower young girls."[22]

- The Juneteenth Oregon website (juneteenthor.com) provides an overview of the "**Mr. & Miss Juneteenth Oregon Pageant**," which includes the "**Miss Juneteenth Oregon**" category for "Ages 16 to 19."[23]

- The website for the Philadelphia Juneteenth Parade & Festival (juneteenthphilly.org) provides information on the "**Pennsylvania Juneteenth Pageant**" and the "**Juneteenth Scholarship Pageant Winners**," which includes a "**Miss Juneteenth**."[24]

- The Juneteenth Strong website (juneteenthstrong.com) advertises the "**MISS JUNETEENTHDFW Scholarship Pageant**," which takes place in Arlington, Texas and "provide[s] a forum for young women to enhance their self-esteem, explore self-expression and provide areas for personal development training."[25]

- The **MISS JUNETEENTH CENTRAL TEXAS PAGEANT** is advertised on www.missjuneteenthcentraltexas.com and is described as "a volunteer led [sic] pageantry organization open to young ladies ages 5 to 18 years old, who are residents of the Austin/Central Texas and Texas region."[26]

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[20] *Id.* at 54-55 (emphasis added).

[21] *Id.* at 40 (emphasis added).

[22] *Id.* at 44 (emphasis added).

[23] *Id.* at 46 (emphasis added).

[24] *Id.* at 48 (emphasis added).

[25] *Id.* at 50 (emphasis added).

[26] *Id.* at 52 (emphasis added).

- The website for the Savannah Juneteenth Fine Arts Festival (savannahjuneteenthfestival.com) includes a page about the winners of the 2025 **MISS SAVANNAH JUNETEENTH** and **MISS TEEN SAVANNAH JUNETEENTH** titles.[27]

- The Facebook page of the "**Tri-Cities Miss Juneteenth Scholarship Program**," indicates that the organization "provide[s] Scholarships for African American Girls in Tri-Cities, WA," and "fosters an environment where young ladies can develop skills in leadership, communication, interviewing and building lasting friendships."[28]

- The website for the Indy Juneteenth Celebration (www.indyjuneteenth.org) advertises the "**Miss Indy Juneteenth Pageant**," which takes place in Indianapolis, Indiana, and is described as "a powerful evening dedicated to uplifting the voices, talents, and stories of young Black women in our community."[29]

- The website for the "**National Miss Juneteenth Scholarship Program**" (nationalmissjuneteenth.godaddysites.com) explains that the program is dedicated to empowering young women across the nation by providing opportunities for higher education, leadership development, and community engagement."[30]

- The website for the "**Miss Juneteenth USA Pageant**" (www.missjuneteenthusa.org) describes the pageant as "an educational and scholarship-driven program that focuses on community service, education, and cultural awareness," and notes that "Juneteenth pageants . . . have been held for decades in several states, including Colorado, Oregon, Delaware, Florida, Tennessee, Oklahoma, Illinois, and Texas."[31]

- The website for the "**Miss Juneteenth Virginia Legacy Pageant**" (www.missjuneteenthva.org) notes that the pageant program is presented "in partnership with the **Miss Juneteenth USA** national pageant program."[32]

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[27] *Id.* at 58 (emphasis added).

[28] *Id.* at 60 (emphasis added).

[29] *Id.* at 63 (emphasis added).

[30] *Id.* at 66 (emphasis added).

[31] *Id.* at 72 (emphasis added).

[32] *Id.* at 76 (emphasis added).

- The website www.juneteenthkc.com advertises the "**4th MISS JUNETEENTHKC PAGEANT**," indicating that the pageant is open to "girls within the Greater Kansas City area."[33]

- The website for the Juneteenth Atlanta Parade & Music Festival (www.juneteenthatl.com) advertises the **Royal Juneteenth Pageants** and includes a photo of the winner of "**Miss Juneteenth Georgia**."[34]

We disagree with the Examining Attorney that the evidence of record is insufficient to establish that the Cited Mark, or a portion of it, is commercially weak.[35] On the contrary, when we consider the evidence of third-party use above, together with the 27 third-party registrations already discussed, we agree with Applicant that, not only is "the beauty pageant industry . . . a 'crowded field,'" but the relevant consumers have been repeatedly exposed to the widespread use of MISS, JUNETEENTH, and MISS JUNETEENTH, or similar iterations, by various parties in connection with pageant and event services. *See Jack Wolfskin*, 797 F.3d at 1374; *Juice Generation*, 794 F.3d at 1339. Accordingly, we find that the Cited Mark is commercially very weak.

3. Conclusion as to the Strength of the Cited Mark

In sum, based on the evidence of record, we find that the Cited Mark is conceptually and commercially very weak, and thus entitled to a comparatively narrower scope of protection. *See Primrose*, 2016 TTAB LEXIS 604, at *18-19 (according "significant weight" to "extensive" evidence of third-party use and

[33] *Id.* at 81 (emphasis added).

[34] *Id.* at 90-91 (emphasis added).

[35] *See* Examining Attorney's Brief, 6 TTABVUE 7.

registration). We acknowledge the Examining Attorney's argument that, as a general matter, even weak marks are entitled to protection.[36] *See Max Cap.*, 2010 TTAB LEXIS 1, at *12. However, "[t]he weaker [a cited mark], the closer an applicant's mark can come without causing a likelihood of confusion and thereby invading what amounts to its comparatively narrower range of protection." *Juice Generation*, 794 F.3d at 1338; *Exxon Corp. v. U.S. Indus., Inc.*, No. 91059757, 1982 TTAB LEXIS 203, at *6 ("[I]t has often been stated that a party who chooses a weak or suggestive term as its trademark may expect that its competitors will choose marks which are closer to his than would be true if that party had chosen an arbitrary or coined mark.") (no number in original). Accordingly, this factor weighs against a conclusion that confusion is likely.

E. Comparison of the Marks

We now address the first *DuPont* factor, which focuses on the similarity or dissimilarity of the marks in their entireties as to appearance, sound, connotation, and commercial impression. *See Palm Bay*, 396 F.3d at 1371 (quoting *DuPont*, 476 F.2d at 1361).

Applicant's mark is MISTER JUNETEENTH and the Cited Mark is MISS JUNETEENTH SCHOLARSHIP PAGEANTRY PROGRAM in standard characters. In assessing these marks, we consider "whether the marks are sufficiently similar in terms of their commercial impression such that persons who encounter the marks would be likely to assume a connection between the parties." *In re i.am.symbolic, llc*,

[36] *Id.*

866 F.3d 1315, 1324 (Fed. Cir. 2017) (quoting *Coach Servs. v. Triumph Learning LLC*, 668 F.3d 1356, 1368 (Fed. Cir. 2012)). "The focus is on the recollection of the average purchaser, who normally retains a general rather than a specific impression of trademarks." *In re Box Sols. Corp.*, No. 76267086, 2006 TTAB LEXIS 176, at *14.

All elements of the respective marks must be considered. *See Viterra*, 671 F.3d at 1362 ("[M]arks must be viewed 'in their entireties,' and it is improper to dissect a mark . . ., including when a mark contains both words and a design."); *In re Nat'l Data Corp.*, 753 F.2d 1056, 1058 (Fed. Cir. 1985) (stating that "marks must be compared in their entireties"). That said, "there is nothing improper in stating that, for rational reasons, more or less weight has been given to a particular feature of a mark, provided the ultimate conclusion rests on consideration of the marks in their entireties." *Nat'l Data*, 753 F.2d at 1058.

Here, the marks are similar in appearance in that they share a similar overall structure, at least as to the initial wording. That is, each mark begins with a courtesy title, MISTER or MISS, combined with the term JUNETEENTH. Accordingly, the initial portions of the marks also sound similar. The wording SCHOLARSHIP PAGEANTRY PROGRAM is a point of difference between the two marks in terms of overall appearance and sound. But this wording is descriptive, if not generic, and is therefore disclaimed. So, it does little in terms of distinguishing source, especially where both marks are applied to pageant services. *See In re Charger Ventures*, 64 F.4th 1375, 1382 (Fed. Cir. 2023) ("[A]n additional word or component may technically differentiate a mark but do little to alleviate confusion."). Further, as the

Examining Attorney points out, both of "the marks are in standard character[s] and thus can be displayed in the same manner,"[37] which could lead to confusion. *See In re Aquitaine Wine USA, LLC*, No. 86928469, 2018 TTAB LEXIS 108, at *13 ("[T]he rights associated with a standard character mark reside in the wording per se and not in any particular font style, size, or color.").

In view of the marks' shared structure, the Examining Attorney argues that they "create a highly similar commercial impression and convey[] the same idea of a person or title with the term JUNETEENTH," and notes that "[c]onsumer confusion has been held likely for marks that do not physically sound or look alike but that convey the same idea, stimulate the same mental reaction, or may have the same overall meaning."[38]

Applicant counters that the "evidence shows that a male gender modifier MISTER is a differentiator and source indicator in the relevant field of pageantry."[39] Specifically, Applicant asserts that "'Mister' constitutes a distinct and source-identifying element that materially alters the commercial impression of the applied-for mark in the context of pageant services."[40] According to Applicant, "consumers in the pageant field routinely distinguish among pageants based on minor variations in courtesy titles within the same gender, including MISS, MS., and MRS.," and thus "a modifier denoting a different gender necessarily carries even greater distinguishing

[37] *Id.* at 5.

[38] *Id.*

[39] Applicant's Brief, 4 TTABVUE 19.

[40] *Id.*

weight."[41] In short, Applicant concludes, "[w]here the shared matter is weak and consumers are conditioned to rely on modifiers, the presence of a cross-gender modifier compels a finding of dissimilar commercial impression."[42]

We agree with Applicant that, under the circumstances, the different courtesy title in Applicant's mark, MISTER vs. MISS, does create a different commercial impression. As we have already stated, the Cited Mark is highly suggestive of a pageant that is intended for young women and is Juneteenth-themed. Applicant's mark, on the other hand, suggests a similar pageant, but intended for men.

Further, the record shows that courtesy titles, like MISS and MISTER, which appear in the names of pageants, also refer to the title bestowed on the winners of the pageants and identify the gender, and often the age, of the competitors. Thus, it is exceedingly common for the same courtesy titles to be used by numerous unrelated pageant providers. Consequently, it is highly unlikely that the relevant consumers of pageant services would rely on these courtesy titles alone as indicators of source.

The record demonstrates that the same is true for the term JUNETEENTH. That is, given the ubiquity of Juneteenth-themed pageants, and the descriptiveness of the term as applied to these pageants, the relevant consumers simply would not look to the term as an indicator of source, nor would they necessarily assume that all Juneteenth-themed pageants originate from the same source.

[41] *Id.*

[42] *Id.*

In other words, as Applicant states, the "evidence shows that in the relevant field of pageantry, industry-specific naming conventions shape how consumers identify source and that these same consumers are conditioned to distinguish pageants on minute distinctions, namely gender modifiers and other descriptors."[43]

In sum, we acknowledge that the marks are similar in appearance and sound, given the shared structure of their initial portions, but we find that, based on the record before us, they are nonetheless distinguishable in connotation and commercial impression. Simply put, we are not convinced that the marks are sufficiently similar in terms of their commercial impression such that persons who encounter the marks would be likely to assume a connection between the respective parties. Therefore, at best, the first *DuPont* factor weighs only slightly in favor of a likelihood of confusion. *See In re Coors Brewing Co.*, 343 F.3d 1340, 1344 (Fed. Circ. 2003) (noting that "similarity is not a binary factor but is a matter of degree").

F. Purchasing Conditions and Sophistication of Purchasers

Under the fourth *DuPont* factor, we consider "[t]he conditions under which and buyers to whom sales are made, i.e., 'impulse' vs. careful, sophisticated purchasing." *DuPont*, 476 F.2d at 1361. Applicant argues that this factor weighs in its favor because "pageant-specific evidence demonstrates that consumers in this field are conditioned by convention: pageant naming follows predictable structures, multiple

[43] *Id.* at 15.

pageants with similar formats coexist, and consumers rely on modifiers—not shared thematic terms—to distinguish source."[44]

The services, as identified here, are not limited to particular classes or types of purchasers, or to specific trade channels, and thus are available to members of the general public. *See Cunningham v. Laser Golf Corp.*, 222 F.3d 943, 948 (Fed. Cir. 2000) (affirming Board finding that where the identification is unrestricted, "we must deem the goods [or services] to travel in all appropriate trade channels to all potential purchasers of such goods [or services]"). We must therefore consider the sophistication of all ordinary consumers of beauty pageant services, namely, pageant contestants, pageant advertisers, and members of general public with an interest in beauty pageants. We must also presume that the standard of care for purchasing decisions in connection with these services is that of the least sophisticated potential purchaser. *See Stone Lion*, 746 F.3d at 1325. In this case, that least sophisticated purchaser is a member of the general public, who may have less knowledge about pageants and exercise less diligence in purchasing decisions surrounding pageant services.

On the other hand, given the evidence of pageant naming conventions, the ubiquity of similarly-named pageants, and the specific, localized nature of most pageants, we find that even the least sophisticated purchaser would be unlikely to assume that similarly-named pageants originate from the same source.

[44] Applicant's Brief, 4 TTABVUE 22.

Accordingly, we deem the fourth *DuPont* factor to weigh slightly against a conclusion that confusion is likely.

II. Conclusion

Having considered all of the arguments and evidence of record pertaining to the relevant *DuPont* factors, we find that Applicant's services and Registrant's services are identical and that the respective services presumably travel through the same types of trade channels and are offered to the same or overlapping classes of purchasers. The marks are similar in terms of sound and appearance, but different as to connotation and overall commercial impression. Further, the evidence shows that the Cited Mark is very weak, both conceptually and commercially. Lastly, we find that, while the relevant consumers could include relatively unsophisticated purchasers, the manner in which pageants are named and marketed would mitigate potential consumer confusion even on the part of these purchasers.

While the similarity of the marks and the relatedness of the respective services are two key *DuPont* factors in every likelihood-of-confusion analysis, *Federated Foods*, 544 F.2d at 1103, not all *DuPont* factors may be "of equal weight in a given case, and 'any one of the factors may control a particular case.'" *Majestic Distilling*, 315 F.3d at 1315. Here, we conclude that the weakness of the Cited Mark, the differences in connotation and commercial impression between the marks, and the marketplace conditions for pageant services would make confusion unlikely even where the marks are used in connection with identical services that presumably travel in the same types of trade channels and are sold to the same classes of consumers. *See, e.g.*, *In re Hartz Hotel Servs.*, No. 76692673, 2012 TTAB LEXIS 75,

at * (finding that GRAND HOTELS NYC for hotel services was not likely to cause confusion with GRAND HOTEL for hotel services, after concluding that "because of the highly suggestive nature of GRAND HOTEL and the number of third-party GRAND HOTEL marks . . . consumers are able to distinguish between different GRAND HOTEL marks based on small differences in the marks").

Decision: The refusal under Trademark Act Section 2(d) to register Applicant's mark, MISTER JUNETEENTH, is **reversed**.